
Costs Decision

Site visit made on 19 May 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2020

Costs application in relation to Appeal Ref: APP/K3605/D/20/3248521 40 Southfields, East Molesey KT8 0BP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Marc Thomas and Inge Midl for a full award of costs against Elmbridge Borough Council.
 - The appeal was against the refusal of planning permission for a part two/part single-storey rear/side extension, front porch and alterations to fenestration following partial demolition of existing dwelling.
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Decision

1. The application for an award of costs against Elmbridge Borough Council is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The claim for costs is on the basis that the Council assessed the extensions as a whole, despite the fact that the gable roof extensions have been constructed and have previously been confirmed as being lawful development, and therefore it is claimed that the premise on which the decision was made was false and the decision itself must be considered unsound. It is further claimed that the Council's objections to the proposal were vague and generalised.
4. The Council considered the gable roof extension as part of the proposed works in their assessment of the application. This was an error because it appears that the gable roof was under construction at the time of consideration of the planning application, as acknowledged by the Council in their email dated 17 February 2020. Therefore, the reason for refusal was arrived at following the Council assessing the proposal on the erroneous basis that the gable roof was part of the proposal. This potentially had implications for the assessment of the proposal and the consideration of the proposed side extension in relation to the existing gable roof.
5. Notwithstanding this, the reason for refusal itself specifically highlights that the harm the Council consider would be caused is because the combination of the side extension and the gable ended roof would appear incongruous together and would dominate the roof slope. This particular effect of the proposal is a reasonable and planning based reason for refusal, even allowing for the fact

that the gable roof was under construction. This is because it is necessary to consider the extension in combination with its relationship to the gable roof, whether built or proposed, in order to appropriately assess the effect of the proposed works on the character and appearance of the area. The reason for refusal was also specific and clear and not vague or generalised.

6. Although the Council incorrectly considered the proposed extension on the basis of an element which was not part of the proposal, bearing in mind my findings about the harm that would be caused by the combination of the existing and proposed roof types, in the circumstances this did not ultimately amount to unreasonable behaviour. Consequently, although the reasoning behind the decision on the planning application was not properly substantiated, the reason for refusal itself was ultimately reasonable and planning based and the Applicant was not put to unnecessary or wasted expense in making the appeal.

Conclusion

7. I therefore find that the behaviour of the Council did not result in unnecessary or wasted expense, and therefore, as described in the PPG, the justification for an award of costs has not been demonstrated.

O S Woodward

INSPECTOR